The Marquette County Board of Commissioners met as a Committee of the Whole on Tuesday, July 11, 1995 at 6:00 p.m. in Room 231 of the Henry A. Skewis Annex, Marquette, Michigan.


Chairperson Corkin opened the meeting for public comment. None was forthcoming.

It was moved by Comm. Minelli, seconded by Comm. Arsenault, and unanimously carried by voice vote that the agenda be approved as presented.

The Committee of the Whole considered options for revision of the Counsel for Indigent Defendants Program.

Chief Circuit Judge Edward A. Quinnell summarized several options that have been under consideration and were discussed at the Special Committee of the Whole meeting held on June 6, 1995.

The recommendation from the Committee on Indigent Counsel is to appropriate a set dollar figure, based upon past experience, and allow all attorneys that are interested in providing indigent counsel on a flat fee prorated basis, with provisions for unusual circumstances.

Another option, proposed by Civil Counsel David Payant would be to establish a Public Defenders Office with staff and attorneys similar to the Prosecutor’s Office.

The third option would be to place indigent counsel services out on competitive bids. The County Board would establish the criteria and have the right to accept or reject bids.

Judge Quinnell invited members of the local bar association to this meeting and Eva Kipper, a local attorney, was present to make comment.

Eva Kipper, Marquette Attorney, 316 Front Street, explained that she has worked in the criminal defense field for the past eight years and was on the County’s Indigent Counsel List for seven years but withdrew her name from the list one year ago. She withdrew because she could no longer allow her regular practice to be interrupted. She found while working on behalf of her regular paying clients her schedule was interrupted to attend a hearing or an arraignment on behalf of an indigent client. Due to these conflicts in scheduling she withdrew, however, is still on the Indigent Counsel List for the Federal Court and the Probate Court. These Courts have leeway to accommodate attorney’s schedules.

Ms. Kipper believes defense for indigents is very important and protects the Constitutional rights of all citizens regardless of their financial status. The group of defense attorneys in Marquette County work very hard and over the years have raised the standard level of practice for indigent counsel.

So what is the solution for proper and adequate indigent counsel? Ms. Kipper suggests the County Board establish a Public Defenders Office. That the County provide office space and staff to cover their overhead. In this way the County Board could also control the budget of the office. This would eliminate any unfair assignments. She contended that in the present proposal (page 5) there’s a problem with prorating indigent counsel by the number of attorneys on an equal dollar basis. All attorneys may get the same pay, but it is very possible one attorney could draw several murder cases which would require much more time and effort.

Another main concern is that no matter what system the County ultimately uses, there will always be a time when there’s a conflict of interest between the attorney and their clients. The Federal Court still maintains a panel of attorneys to meet that need.

Ms. Kipper also reported that some counties did go to a bid process, and the attorneys "low balled" on the first-year bids, then were back asking the County Board for extraordinary expenses.
Ms. Kipper responded to questions by explaining that providing indigent counsel is very important for some attorneys, most often beginning attorneys. It depends upon an individual. There are about 100 attorneys practicing law in Marquette County and only 20 to 25 do court appointed work. This means a Public Defenders Office would not be in competition with private practice attorneys. The biggest drawback of any indigent counsel program, including a Public Defenders Office, would be conflicts. The County would still need a panel of attorneys as a back up.

County Administrator, Dennis Aloia, reported on his experience in Indiana. Once such a Public Defenders Office is established, it continues to grow like any other department. The biggest problem Marquette County has would be lack of space. He does not know if a Public Defenders Office would be cost effective but the range may be very close to what we are spending now. As far as the salaries for attorneys working a Public Defenders Office, they would be classified the same as attorneys working in the Prosecutor’s Office, therefore would get the same pay and benefits.

Administrator Aloia suggested the County Board look at other Counties to see what they do. He knows that $40/hr is inadequate, however, Marquette County is facing a $1 million budget shortfall. Should we assume that the current level of funding for Indigent Counsel is where we start at? Bidding may save the County substantial amounts of money even though someone may provide a “low ball” bid for the first year.

Civil Counsel David Payant added that a public defenders office would not compete with private practice because we can already assume that potential clients have no money in the first place.

District Court Judge James Collins pointed out that should the County bid out indigent counsel, a bidding group of attorneys would be needed to prevent conflicts. It has already been determined that compensation for indigent counsel based on a set fee for certain types of cases is not Constitutional. Also, whether we bid out for indigent counsel services for have Public Defenders Office, the Court still needs a statement of some type for attorney fees in order to charge clients for reimbursement.

Judge Quinnell suggested that the County send out bids to see what happens, but we need much more work in order to develop specifications. Indigent counsel costs fluctuate yearly and are difficult to predict. Some counties have five bidding groups of attorneys and they each bid on 20% of the whole contract.

Administrator Aloia felt that under the present time frame the best he could do was something for the budget process. Bids could be prepared and sent out just to see what happens to provide for an option. We must find a way to minimize administrative costs for indigent counsel and the system must require very little maintenance.

It was moved by Comm. Braamse, seconded by Comm. Angeli and unanimously carried by voice vote that the Committee of the Whole direct the County Administrator to work with the Indigent Counsel Committee and Judges to prepare bid specifications for indigent counsel and also evaluate a potential Public Defenders Office to be considered during the FY 1996 budget process.

Chairperson Corkin opened the meeting for public comment. None was forthcoming.

There being no further business, the meeting was adjourned at 6:40 p.m.

Respectfully submitted,

David J. Roberts
Marquette County Clerk
MARQUETTE COUNTY BOARD OF COMMISSIONERS
SPECIAL COMMITTEE OF THE WHOLE
Tuesday, July 11, 1995 - 6:00 p.m.
Room 231, Henry A. Skewis Annex, Marquette, MI 49855

1. ROLL CALL.
2. APPROVAL OF THE MINUTES. (None).
3. PUBLIC COMMENT.
4. APPROVAL OF THE AGENDA.
5. Consideration of possible revision of our Counsel for Indigent Defendants Program.
6. PUBLIC COMMENT.
7. ANNOUNCEMENTS.
8. ADJOURNMENT.
MEMORANDUM

TO: COUNSEL FOR INDIGENT DEFENDANTS COMMITTEE MEMBERS
   William B. Ferns          How. James M. Collins
   David A. Payant          David J. Roberts
   Patricia Frazier          Connie Branam
   Cindy Cope               Joseph Levandoski

FROM: Edward A. Quinnell, Circuit Judge

RE: SPECIAL COMMITTEE OF THE WHOLE MEETING
   July 11, 1995

DATE: June 23, 1995

The County Board has scheduled a special meeting of the Committee of the Whole for July 11, 1995 at 6:00 p.m. (immediately before the regular Board meeting at 7:00) to address the issue of counsel for indigent defendants.

The Board has requested that we invite the committee members as well as any members of the bar who would be interested in addressing this issue with the board.

To the members of the bar listed below, I have included the packet of information provided to the County Board at the last special Committee of the Whole meeting as well as a memo from David Payant, to bring you up to speed on what the Board is considering.

cc: Eva Kipper
    Timothy Quinnell
    Thomas Casselman
    Mark Peter Stevens
    Marvin Heitman
    Paul Peterson